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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,061	06/18/2001	Izumi Takemoto	P66783US0	1762

136 7590 09/27/2004

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

EXAMINER

BOYD, JENNIFER A

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/882,061	Applicant(s) TAKEMOTO, IZUMI	
	Examiner Jennifer A Boyd	Art Unit 1771	

KB

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

7-13-04

- 1) ☒ Responsive to communication(s) filed on 7-13-04
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 8-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 8-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The Applicant's Amendments and Accompanying Remarks, filed July 13, 2004, have been entered and have been carefully considered. Claims 1, 8 – 11, 13, 15 and 17 are amended, claims 3 – 7 are cancelled and claims 1 – 2 and 8 – 18 are pending. In view of Applicant's Amendments, the Examiner withdraws the 35 USC 112 rejection of claims 1, 8 – 10, 13 and 15 as detailed in paragraphs 4 – 5 of the previous Office Action dated April 20, 2004. In view of Applicant's Arguments, the Examiner has revised the 35 U.S.C. 103(a) rejection as being unpatentable over Akio (US 2002/0104671 A1) as detailed in paragraph 8 of the previous Office Action dated April 20, 2004. Despite this advance, the invention as currently claimed is unpatentable for reasons herein below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

3. Claims 1 – 2, 8 and 11 - 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Labarte et al. (US 3,686,734) in view of Ogasa (US 6,077,366). The details of the invention can be found in paragraph 7 of the previous Office Action dated April 20, 2004. The rejection is maintained.

Art Unit: 1771

4. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akio (US 2002/0104671 A1).

Akio is directed to a substrate comprising conductive filaments 20 and insulative filaments 24 (page 3, [0047]) which are woven together (page 4, [0048]). Akio teaches that the insulative filaments are used as the warp threads and the conductive filaments are used as the weft threads (page 4, [0048] and [0058]). Akio teaches that the warp threads can be made of glass and the weft threads can be made of gold and alloys (page 4, [0048] and [0058]). It should be noted that the material of the weft and warp are different.

Akio discloses the claimed invention except for that gold alloys can be used as the weft threads. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use gold alloy as the weft threads, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of design choice. *In re Leshin*, 125 USPQ 416. In the present invention, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use gold alloys since Akio suggests that gold and alloys separately are suitable materials for the substrate .

Akio discloses the claimed invention except for that the gold alloy monofilament has a diameter of 70 micrometers or less as required by claim 9 or a diameter between 30 and 70 micrometers as required by claim 10. It should be noted that the diameter is a result effective variable. For example, as the diameter increases, the monofilament increases in strength but if the diameter is too large, the resulting fabric loses elasticity and exhibits poor drape. It would have been obvious to one having ordinary skill in the art at the time the invention was made to

create the gold alloy monofilament has a diameter of 70 micrometers or less as required by claim 9 or a diameter between 30 and 70 micrometers as required by claim 10, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one would have been motivated to optimize the diameter of the monofilament to create a fabric with good drapability while maintaining its strength.

Akio does not explicitly teach that the claimed monofilament tensile strength is 0.12 to 6.5 N as required by claim 9, it is reasonable to presume that monofilament tensile strength is 0.12 to 6.5 N as required by claim 9 is inherent to Akio. Support for said presumption is found in the use of like materials (i.e. a gold alloy monofilament with a diameter of 70 micrometers or less), which would result in the claimed property. The burden is upon the Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of would obviously have been present once the Akio product is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977).

Response to Arguments

5. Applicant's arguments with respect to 1 – 2, 8 and 11 - 18 have been fully considered but they are not persuasive.

In response to Applicant's argument that Labarte does not teach or suggest a fabric that is woven, the Examiner respectfully argues the contrary. **Labarte teaches a loosely woven metal mesh** (Abstract) comprising wires of gold alloy (column 2, lines 30 – 40). Labarte positively indicates that the mesh is woven in the Abstract. The Examiner acknowledges the definition of

Art Unit: 1771

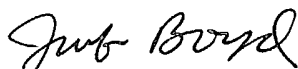
mesh as commonly known in the art to refer to "an openwork fabric or structure", however, Labarte specifically states a "woven mesh" implying that the mesh is woven.


6. Applicant's arguments with respect to claims 9 - 10 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Boyd whose telephone number is 571-272-1473. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jennifer Boyd
September 21, 2004


Ula C. Ruddock
Primary Examiner
Tech Center 1700